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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-148

13  
14 **JOHN CLIFFORD ALLEN**

**DEFAULT DECISION AND ORDER**

15 **PMB 183**  
16 **4319 Atlanta Highway**  
17 **Montgomery, AL 36109**

[Gov. Code, §11520]

18 **Registered Nurse License No. 603395**  
19 **Nurse Anesthetist Certificate No. 2874**

Respondent.

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21 **FINDINGS OF FACT**

22 1. On or about September 4, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her  
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
24 Consumer Affairs, filed Accusation No. 2013-148 against John Clifford Allen (Respondent)  
25 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

26 2. On or about August 2, 2002, the Board of Registered Nursing (Board) issued  
27 Registered Nurse License No. 603395 to Respondent. The Registered Nurse License expired on  
28 February 29, 2008, and has not been renewed.

1           3.     On or about August 8, 2002 the Board issued Nurse Anesthetist Certificate No. 2874  
2 to Respondent. The Nurse Anesthetist Certificate also expired on February 29, 2008 and has not  
3 been renewed.

4           4.     On or about September 4, 2012, Respondent was served by Certified and First Class  
5 Mail copies of the Accusation No. 2013-148, Statement to Respondent, Notice of Defense,  
6 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
7 and 11507.7) at Respondent's last address of record which was PMB 183, 4319 Atlanta Highway,  
8 Montgomery, AL 36109. Respondent was also served those same documents by Certified and  
9 First Class mail at an additional address, 182 Grey Squirrel Way, Franktown, CO 80116.

10          5.     Service of the Accusation was effective as a matter of law under the provisions of  
11 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

12          6.     On or about September 17, 2012, the First Class Mail documents sent to the Alabama  
13 address were returned by the U.S. Postal Service marked "Refused" and "No longer at address."  
14 On or about October 8, 2012, the Certified Mail documents were returned for the same reason.  
15 The address on the documents was the same as the address on file with the Board.

16          7.     On or about October 8, 2012, the documents sent to the Colorado address were  
17 returned, marked "Unclaimed" and "Unable to Forward."

18          8.     Government Code section 11506 states, in pertinent part:

19               (c) The respondent shall be entitled to a hearing on the merits if the respondent  
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
21 of the accusation not expressly admitted. Failure to file a notice of defense shall  
22 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
23 may nevertheless grant a hearing.

24          9.     Respondent failed to file a Notice of Defense within 15 days after service upon  
25 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
26 No. 2013-148.

27          10.    California Government Code section 11520 states, in pertinent part:

28               (a) If the respondent either fails to file a notice of defense or to appear at the  
hearing, the agency may take action based upon the respondent's express admissions  
or upon other evidence and affidavits may be used as evidence without any notice to  
respondent.

11. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2013-148, finds that the charges and allegations in Accusation No. 2013-148, are separately and severally, found to be true and correct by clear and convincing evidence.

12. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$910.00 as of October 16, 2012.

## DETERMINATION OF ISSUES

13. Based on the foregoing findings of fact, Respondent John Clifford Allen has subjected his Registered Nurse License No. 603395 and Nurse Anesthetist Certificate No. 2874 to discipline.

14. The agency has jurisdiction to adjudicate this case by default.

15. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License and Nurse Anesthetist Certificate based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Violation of Business and Professions Code section 2761 subdivision (a)(4) on the grounds of unprofessional conduct, because the Arizona State Board of Nursing revoked Respondent's Arizona registered nursing license and his Arizona certified registered nurse anesthetist certificate on or about January 26, 2012 for continuing to write prescriptions after the it rescinded his authority to do so, for failing to properly respond to its inquiries, and for making false representations regarding his ability to receive Medicare reimbursements.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED January 16, 2013

51177950.DOC  
DOJ Matter ID:LA2012507078

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# Exhibit A

Accusation

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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2013-148*

11 **JOHN CLIFFORD ALLEN**

**A C C U S A T I O N**

12 **PMB 183**  
13 **4319 Atlanta Highway**  
14 **Montgomery, AL 36109**

15 **Registered Nurse License No. 603395**  
**Nurse Anesthetist Certificate No. 2874**

16 **Respondent.**

17 **Complainant alleges:**

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 2. On or about August 2, 2002 the Board issued Registered Nurse License Number  
23 603395 to John Clifford Allen ("Respondent"). The Registered Nurse License expired on  
24 February 29, 2008 and has not been renewed.

25 3. On or about August 8, 2002 the Board issued Nurse Anesthetist Certificate No. 2874  
26 to Respondent. The Nurse Anesthetist Certificate also expired on February 29, 2008 and has not  
27 been renewed.

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## JURISDICTION AND STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (all section references are to the Business and Professions Code unless otherwise indicated) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under subdivision (b) of Section 2811 of the Code the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118 subdivision (b) also grants the Board jurisdiction over suspended, expired, forfeited, cancelled, or surrendered licenses:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

7. In pertinent part, Section 2761 authorizes the Board to discipline licensees for license revocations or restrictions in other states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

1 COST RECOVERY

2 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 CAUSE FOR DISCIPLINE

7 (Disciplinary Action by the Arizona State Board of Nursing)

8 9. Respondent is subject to discipline pursuant to Code section 2761 subdivision (a)(4)  
9 on the grounds of unprofessional conduct, because his Arizona registered nursing license and his  
10 Arizona certified registered nurse anesthetist certificate were revoked by the Arizona State Board  
11 of Nursing ("Arizona Board"), as follows:

12 10. On or about January 26, 2012, the Arizona Board issued an order revoking  
13 Respondent's Arizona nursing license and Arizona certified registered nurse anesthetist certificate  
14 in the disciplinary action entitled, *In the Matter of Registered Nurse License No. RN159804;*  
15 *Certificate No. Certified Registered Nurse Anesthetist No. CRNA0632 Issued to: John Clifford*  
16 *Allen.*

17 11. In its January 26, 2012 order, the Arizona Board found as follows:

18 a. On or about 1992, Respondent was licensed as a registered nurse in Alabama.  
19 He then completed a program to be a certified registered nurse anesthetist. He practiced as a  
20 certified registered nurse anesthetist in Alabama for five or six years before moving to Arizona.

21 b. At a date unspecified, Respondent began running a chronic pain management  
22 clinic in Springerville, Arizona, a rural area.

23 c. While running the clinic in Springerville, Respondent asked the Arizona Board  
24 whether he could legally independently prescribe medication to his chronic pain management  
25 patients.

26 d. The Arizona Board surveyed the practices of other states and found that some  
27 states allowed certified registered nurse anesthetists to prescribe medication in pain management  
28 clinics outside of hospital settings.



1 e. At a meeting in September 2009, the Arizona Board passed a motion allowing  
2 Respondent to independently prescribe medication to his patients at the pain management clinic.  
3 He became the only certified registered nurse anesthetist to whom the Arizona Board granted  
4 independent prescription-writing authority.

5 f. In September 2009, Respondent began writing pain medication prescriptions to  
6 his patients unsupervised by any doctor.

7 g. The Arizona Society of Anesthesiologists complained to the Arizona Board  
8 about Respondent's prescription writing authority.

9 h. On March 23, 2010, the Arizona Board met again to consider Respondent's  
10 prescription writing authority. Respondent and his attorney testified at the meeting. After  
11 meeting in executive session, the Arizona Board passed a motion rescinding Respondent's  
12 independent prescription-writing authority. It then informed him that he would be officially  
13 notified of its action. But it failed to mail him or his attorney official notification of its decision  
14 until July 12, 2011. In the meantime, he continued independently writing prescriptions to his  
15 patients.

16 i. From March 23, 2010 to September 22, 2011, when the Arizona Board issued  
17 an emergency order suspending his Arizona license, Respondent wrote thousands of prescriptions  
18 for controlled substances, most of which were for pain management. These included  
19 prescriptions for powder cocaine, amphetamine salts, and opioid withdrawal medications.

20 j. On October 20-21, 2011, the Arizona Board held a hearing on four complaints  
21 against Respondent's Arizona nursing license and certified registered nurse anesthetist certificate.

22 k. After the hearing, the Arizona Board concluded that Respondent had committed  
23 unprofessional conduct by continuing to write prescriptions after the Arizona Board rescinded his  
24 authority to do so at its meeting on March 23, 2010.

25 l. It also concluded Respondent had committed unprofessional conduct by failing  
26 to properly respond to an inquiry and subpoenas it issued for his patient records.

27 m. And it concluded that he had committed unprofessional conduct by representing  
28 to a physician responsible for the state's Medicare reimbursements that he was still authorized to

1 prescribe medications (and therefore qualified to receive Medicare payments) after the date the  
2 Arizona Board had rescinded his prescribing authority.

3 12. Based on these violations, the Arizona Board revoked Respondent's Arizona nursing  
4 license and certified registered nurse anesthetist certificate.

5 13. Under Code Section 2761, subdivision (a)(4), the revocation of Respondent's nursing  
6 license and certified registered nurse anesthetists certificate by the Arizona Board in 2011 is  
7 ground for the California Board to take disciplinary action.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged;  
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 603395, issued to John  
12 Clifford Allen;

13 2. Revoking or suspending Nurse Anesthetist Certificate Number 2874, issued to John  
14 Clifford Allen;

15 3 Ordering John Clifford Allen to pay the Board of Registered Nursing the reasonable  
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
17 Code Section 125.3; and,

18 4 Taking such other and further action as deemed necessary and proper.

19 DATED: September 04, 2012

20 *for* LOUISE R. BAILEY, M.Ed., R.N.  
21 Executive Officer  
22 Board of Registered Nursing  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

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